



Regulatory strategy for MBIE's employment relations services

2023 – 2028





Ministry of Business, Innovation and Employment (MBIE) Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice and regulation to support economic growth and the prosperity and wellbeing of New Zealanders. MBIE combines the former Ministries of Economic Development, Science and Innovation, and the Departments of Labour, and Building and Housing.

More information

Information, examples and answers to your questions about the topics covered here can be found on our website: www.mbie.govt.nz or by calling us free on: **0800 20 90 20**.

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Our vision, purpose and outcomes

We are the regulator of the employment relations and employment standards regulatory system.

We are known externally as Employment New Zealand, Employment Mediation Services and the Labour Inspectorate. The Employment Relations Act 2000 and several other Acts of Parliament establish our regulatory functions under the Chief Executive of the Ministry of Business, Innovation and Employment (MBIE).

**EMPLOYMENT
NEW ZEALAND**

**Employment
Mediation
Services**

**LABOUR
INSPECTORATE**
FAIR WORKPLACES

Vision and purpose

Our vision is fair workplaces. This is what we want to achieve.

Our purpose is supporting good and productive employment relationships. This is what drives our work.

Outcomes

We want to achieve the following outcomes through our work:

- › Employers and workers have good and productive employment relationships.
- › Workers get their entitlements and have wellbeing at work, lifting employment outcomes overall.
- › Compliance costs across the system are reduced, enabling reinvestment in workers and business, improving productivity.
- › There is a level playing field for employers who do the right thing, and those who don't are held to account.





The employment relations and employment standards system

The employment relations and employment standards (ERES) system supports good and productive employment relationships.

The ERES system sets rules for a market of labour hire and reward. The operation of this market is not simply an exchange of goods and services. It is based on human relationships. Mutual trust, confidence and fair dealing are important. At its heart are people and good faith relationships. The ERES system's design reflects this purpose of supporting employment relationships.

Minimum employment standards

The ERES system sets minimum standards of employment. We are responsible for monitoring compliance with these standards. Minimum standards provide a level playing field for businesses. They ensure our labour market operates in a way that satisfies public expectations for the conduct of employment relationships.

Good faith relationships

A core concept of the ERES system is that employment relationships must be conducted in good faith. An important role in our system is therefore promptly resolving problems that may arise in employment relationships. The Employment Relations Act emphasises early and informal dispute resolution. We provide mediation services as the first recourse to support fast, fair and flexible dispute resolution. Our system includes specialised institutions, like the Employment Relations Authority and the Employment Court, who resolve disputes where mediation is either not appropriate or has not addressed the problem.

The full suite of employment legislation establishes various other regulatory functions for MBIE, such as providing information and advice about employment relationships and registering unions. Our system also recognises unions and employer organisations as representatives of workers and employers.

Our responsibilities

Our responsibilities as a regulator stem from employment legislation.

Under the Employment Relations Act, our role is to promote productive and good faith employment relationships. We are specifically empowered to:

- › Provide information and advice about employment law, rights and obligations,
- › Promote effective resolution of problems by providing dispute resolution services, and
- › Ensure compliance with employment standards, and take enforcement action if required.

Under the Employment Relations Act, we provide free dispute resolution services to help resolve employment relationship problems. Mediators also certify records of settlement under a general warrant from the Chief Executive of MBIE. This allows agreements reached privately to be enforced through the Employment Relations Authority or the courts.

Our Labour Inspectors are also warranted by the Chief Executive of MBIE. The main role of a Labour Inspector is to monitor compliance with employment standards, and take enforcement action if required. Employment legislation sets out specific powers and functions for Labour Inspectors, such as the power to enter workplaces and require certain types of records to be produced. The Labour Inspectorate's range of enforcement tools, like the ability to issue improvement notices, is also set out in employment legislation.

What is employment law?

Employment law is made up of several Acts of Parliament, and decisions made by the Employment Relations Authority and the courts. Some Human Rights Review Tribunal decisions also make up employment law.

Key employment legislation includes:

- › Employment Relations Act 2000
- › Equal Pay Act 1972
- › Fair Pay Agreements Act 2022
- › Holidays Act 2003
- › Minimum Wage Act 1983
- › Parental Leave and Employment Protection Act 1987
- › Remuneration Authority Act 1977
- › Screen Industry Workers Act 2022
- › Sharemilking Agreements Act 1937
- › Shop Trading Hours Act 1990
- › Trade Unions Act 1908
- › Volunteers Employment Protection Act 1973
- › Wages Protection Act 1983



Principles guiding our work

As the regulator of the ERES system, our work spans a range of services. Our collective effort is guided by the following principles.

We uphold te Tiriti o Waitangi.

We demonstrate an understanding of te Tiriti o Waitangi/the Treaty of Waitangi and the Crown’s responsibilities under it. We are committed to partnership, and will build relationships and invest in endeavours which contribute to Māori wellbeing.

We will ensure our people have the capability and capacity to actively identify and protect Māori rights and interests. Our people will work effectively with Māori employers, workers and other representatives.

We will provide deliberate and focussed support that lifts Māori wellbeing. We also monitor the impact of our services and interventions on Māori employers and workers.

We act with utmost integrity.

We are fair, honest and open in our dealings. This doesn’t mean we stand by idly if we identify wrongdoing—we hold people to account and uphold the law. We are committed to public service and the public interest. We are clear on what we do and why.

We engage actively.

We move quickly when people come to us, and take their needs and wishes into account when finding a way forward. We engage fairly. We communicate early and openly, and can explain our decisions.

We listen to people, communities, organisations and sectors in our system. We work with and through others to improve our reach.

We work to improve outcomes.

We take the right action at the right time based on the regulatory outcomes we seek to achieve. We identify and take opportunities to achieve those outcomes. We use evidence and insights to inform our responses, decisions and practice.

We continually review how we regulate employment relationships and provide our services. We learn from what we do, as well as other regulators in Aotearoa New Zealand and abroad.

Our approach as a regulator

There are over 2.8 million workers and over 166,000 employers in Aotearoa New Zealand. We do not monitor or intervene in every employment relationship. We offer broad and general support for all employment relationships, for example, through information on our website about employment rights and obligations. We proactively focus our effort and resources where risk of harm is greatest, to target our services where they are most needed. We also work with and through others to achieve our desired outcomes.

We are a responsive and risk-based regulator.

“Responsive” means our interventions are proportionate and tailored. We choose the appropriate approach, service or intervention based on the situation at hand and parties’ needs. We intervene at the lowest level, proportionate to the desired outcome. At times, this may mean using a combination of services. It also means we work with agencies in other regulatory systems where there is overlap.

“Risk-based” means we are targeted. We focus our attention and resources on areas where the likelihood and degree of harm is greatest. Across the numerous and varied employment relationships in Aotearoa New Zealand, we know risk of harm differs based on factors like sector, region, demographics or employment model. For example, many Labour Inspectorate cases are concentrated in lower-wage sectors and occupations, where employees’ terms and conditions are close to the minimum wage and minimum employment standards.

As a responsive and risk-based regulator, our response to any situation may comprise of more than one action at a time. Our response will depend on factors like the extent and likelihood of harm, public interest, parties’ willingness and capability to comply with employment law, and previous conduct. We take action that is appropriate and proportionate to the circumstances.

What is a regulator?

Parliament makes laws to protect the community from harm, or to achieve outcomes that New Zealand may not be able to achieve without a regulatory framework. But regulation isn’t just about the law.

To make Parliament’s intentions come to life, organisations need to deliver services, educate and inform, make sure people understand and follow the rules, and support resolution of disputes.

Organisations that perform these roles are referred to as “regulators” within regulatory systems.

Our regulatory functions

As a responsive and risk-based regulator, our regulatory functions fall in six categories.

The first four involve more direct engagement with and involvement in employment relationships. The other two are enablers, supporting our work as a regulator and other actors in the regulatory system like the Employment Relations Authority.

To ensure we achieve the best outcomes, we may use services or interventions from multiple categories at the same time, in any order, or in combination.

Information and education	Guidance and capability-building	Dispute resolution	Compliance and enforcement
We help employers and workers understand their employment rights and responsibilities, so they can act on them. We ensure people know how to get help with employment issues. This prevents problems and supports self-resolution when they arise.	We provide guidance and capability-building to employers, workers and others to achieve systemic change in employment practices. Lifting capability of parties contributes to fair treatment of workers and prevents problems arising.	We provide dispute resolution services to help parties resolve individual and collective employment relations problems, supporting people to move forward with mana retained.	We take proportionate, graduated compliance and enforcement actions to address breaches of minimum standards and exploitation. This restores the balance of power and ensures access to rights for individuals. This also supports wider systemic compliance and a level playing field.

Enabling functions

Regulatory services	Advice, insights and analysis
We provide a range of other regulatory services so the Chief Executive of MBIE and the Employment Relations Authority can fulfil their statutory duties. These support a well-functioning regulator and help people navigate our services.	We use advice, insights and analysis to inform our work and understand how the labour market is functioning. This also helps target our interventions where there is the greatest need or risk of harm.



Our activities

Information and education

We inform and educate employers, workers and their representatives about employment rights and obligations. We help people understand what they need to do to comply with employment regulation and access their entitlements, and where to go for help if things go wrong. This includes direct communication, as well as working with and through partners to improve our reach.

Our information and education activities include:

- › Providing clear and timely information about employment rights and obligations, using channels like our website, service centre, newsletters and social media.
- › Outreach activities and community events to make connections, inform, and let people know how we can help with employment issues.
- › Raising awareness of the consequences of exploitative practices, such as those resulting from our compliance activities and decisions from the Employment Relations Authority and the Employment Court.

Guidance and capability-building

We provide guidance and help build capability among employers, workers and others. This contributes to their systems, processes and approaches reflecting good employment practices. We also work with leaders across government, business, unions and communities to achieve systemic change.

Our guidance and capability-building activities include:

- › Outreach activities and targeted capability-building across unions, businesses, communities and sectors to influence others to change their behaviour and practices.
- › Developing tools and products to make it easier for people to get employment law right.
- › Promotional activities which focus effort on key employment issues or areas of non-compliance.





Dispute resolution

We provide a range of dispute resolution services. These help workers, employers and their representatives to resolve issues that arise in working relationships and collective bargaining. Our dispute resolution services contribute to stronger employment relationships overall.

Our dispute resolution services include:

- › Early resolution, a phone-based service that provides information and support directly to parties to help them resolve problems informally and fast, early in the problem.
- › Guided self-resolution, to give employers information and support to comply with employment standards.
- › Mediation, where an independent mediator works with parties to help them identify issues and find solutions that are mutually acceptable. We provide this in-person or virtually, as well as tikanga Māori-informed and restorative mediation, and for individual and collective matters.
- › Certifying records of settlement so agreements reached privately can be enforced through the Employment Relations Authority or Employment Court.

Compliance and enforcement

We monitor compliance with employment standards. When we detect breaches or exploitation, we take enforcement action if appropriate. Labour Inspectors have powers to enter workplaces, question employers and require records to support these activities.

Our compliance and enforcement activities and tools include:

- › Determinations by Labour Inspectors such as on eligibility for paid parental leave.
- › Compliance checks and audits.
- › Enforceable undertakings, improvement notices and infringement notices to require compliance.
- › Collection of arrears, for example of unpaid wages, including through seeking freezing orders.
- › Investigations, either proactively based on risk or when we receive a complaint. If breaches are proven, outcomes could include taking a matter to the Employment Relations Authority for compliance orders, penalties or decisions.
- › By application to the Employment Court, declarations of employment status or serious breaches of the law, pecuniary penalties, compensation orders, or banning orders preventing people from being employers.

Regulatory services

We provide a range of regulatory services so the Chief Executive of MBIE and the Employment Relations Authority can fulfil their statutory duties. These support a well-functioning regulator, and help people navigate our services.

Our regulatory services include:

- › Triage and allocation processes, which ensure complaints and requests for help are directed to the appropriate service or to another regulator.
- › Providing day-to-day support for the regulator and the Employment Relations Authority.
- › A liaison service to support migrant workers experiencing exploitation through the complaint process.
- › Supporting the Chief Executive of MBIE to make statutory decisions and approvals.
- › Maintaining the public list of employers barred from hiring migrant workers, which is known as the employment stand down list.
- › Receiving records of strikes and lockouts and collectively bargained agreements.
- › Registering unions and screen industry organisations.
- › Assessments for regulatory partners, such as to support the Recognised Seasonal Employer scheme.

Advice, insights and analysis

We generate advice, insights and analysis to ensure we are functioning well as a regulator, and to inform the public about how the labour market is functioning. This also helps target our interventions where there is the greatest need or risk of harm.

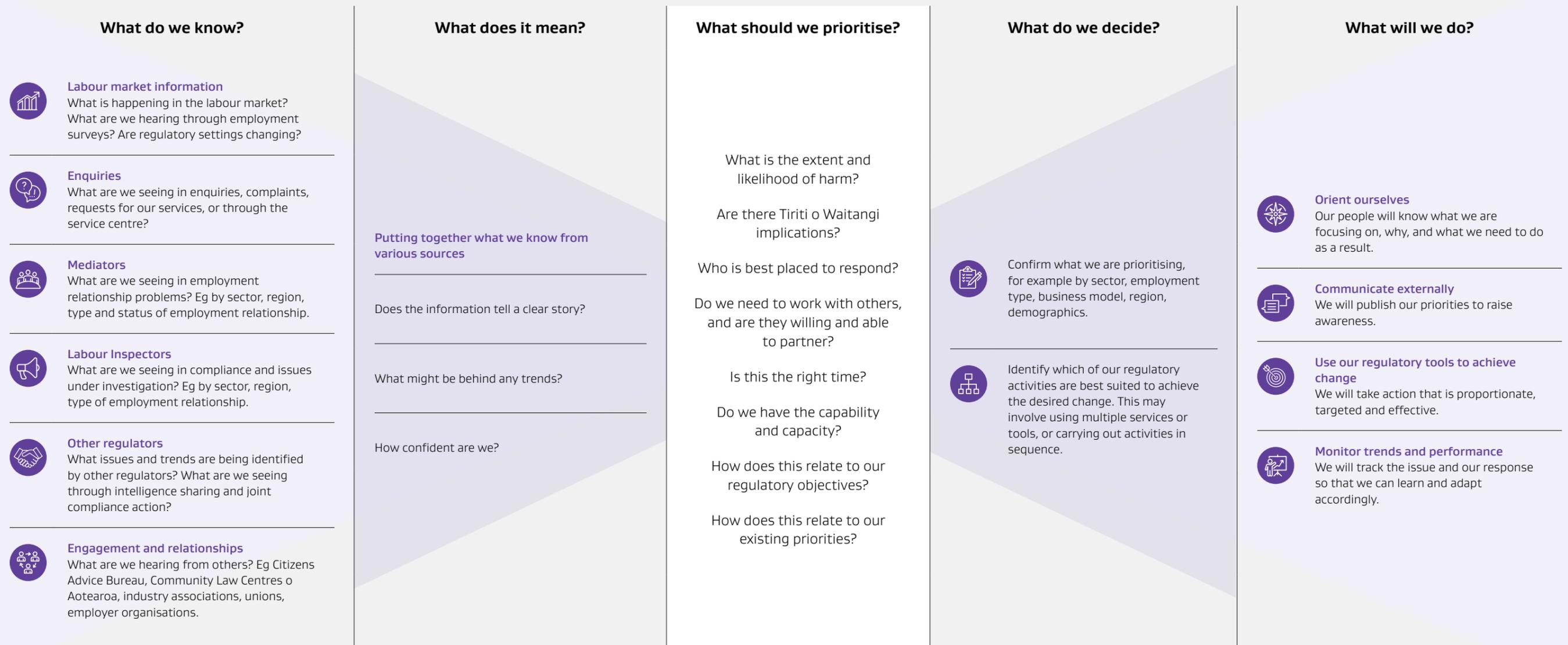
Our advice, insights and analysis include:

- › Business reporting and insights.
- › Research and analysis.
- › Supporting official correspondence and parliamentary scrutiny processes, such as Estimates hearings.
- › Advising the responsible Minister on operational and regulatory matters.
- › Contributing to policy development and implementation of legislative changes.



How we decide our priorities

The diagram below describes how we decide what issues to focus on as a regulator. We use this process annually to set our priorities, or as needed to respond to emerging issues.



Capability shifts

We are making five shifts to improve our capability to achieve our regulatory outcomes.

Be a good Treaty partner

We will build enduring and meaningful partnerships with Māori to meet the needs of Māori, lift Māori employment outcomes, and meet our obligations under te Tiriti o Waitangi. We will continue to develop new approaches to improve the experience of Māori using our services. We will invest to lift our own te ao Māori capability, and deliver our actions under Te Mahere Whai Mahi Māori (the Māori Employment Action Plan).



Put people at the centre

We will take the right action at the right time for the people involved. We will use a graduated response model, depending on the seriousness of the issue; how likely harm is to occur; and the behavioural change that can be achieved. We will consider the capability and willingness of the people involved. We will take into account their different needs, including those based on disability or culture. At a system level, putting people at the centre means meeting individual needs while also achieving systemic change.

Help people to get it right

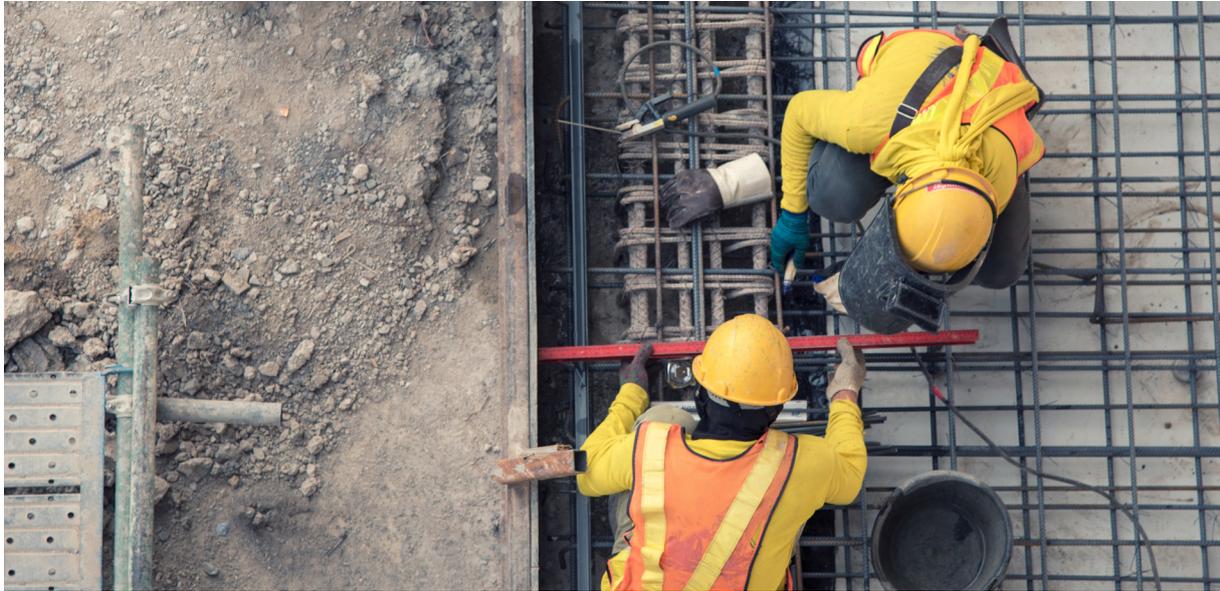
We will make it easier for people to get employment right. We will work with and through others to extend our reach, and to change behaviour at the individual and system levels. Direct support is our core business, but we cannot directly help over 2.8 million workers and over 166,000 employers. We will continue to grow our capability to provide guidance and resources on systemic issues. We will work better with others who have oversight of, influence, and support workers and employers to lift employment practices and outcomes.

Empower our people

We will help our people realise their potential and succeed, together. We will continue to invest in our people, our workplaces and systems. We will equip our people to implement this strategy effectively, and will support our people's growth and development.

Be driven by insights

We will use evidence, data and analysis to underpin our decisions and actions. We will measure how we are changing behaviours and outcomes. We are investing in our business intelligence and market research and insights. We will grow our understanding of the people who need and use our services, and those who do not.



Who we work with

Employment, and work more generally, is intrinsically connected to many other parts of people’s lives. We work with parties regulated by the ERES system, like employees and employers. We also work with and through others.

Social partners

We work with BusinessNZ and the New Zealand Council of Trade Unions as peak bodies representing employers and employees nationally. We also have relationships with representatives of workers and business, like unions and Chambers of Commerce.

Communities

We work with communities and community organisations to understand issues affecting them and improve our reach.

Iwi, hapū and Māori organisations

We collaborate with iwi, hapū and Māori organisations. We are committed to growing meaningful relationships to lift Māori employment outcomes.

Other regulators

We work with other regulators, particularly those who also regulate work. Examples include WorkSafe, Immigration New Zealand, Inland Revenue and the Ministry for Social Development.

Those who can influence behaviour change

We work with organisations and systems that can influence the behaviour of employers on employment practices, such as banks, payroll providers, procurers and investors.

Government and researchers

We work with government and researchers to grow our understanding of employment issues and opportunities. An example includes administering the Industrial Relations Foundation, which funds employment research.



Te Kāwanatanga o Aotearoa
New Zealand Government